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2005
Annual Report

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Commonwealth of Massachusetts
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT
COMMISSION ON INDIAN AFFAIRS
Mitt Romney, Governor ◆ Kerry Healey, Lt. Governor
Jane Wallis Gumble, Director, DHCD ◆ John Peters, Jr. Executive Director

February 23, 2006

Dear Governor Romney.

On behalf of the membership of the Massachusetts Commission on Indian Affairs, I am pleased to present the Commission's Annual Report for the year 2005. The report is a comprehensive overview of the Commission's programs, work in progress, and activities during the calendar year.

This past year we continued our focus on being more responsive to the issues and needs of the Native American population in the Commonwealth. In particular we have worked closely with North American Indian Center of Boston in their negotiation with DCAM to renew a long term lease of surplus property on which they have resided for 30 years. From an Indian perspective the most difficult occurrence was the jurisdictional precedent rendered in the case Gay Head/ Aquinnah Tribe vs. the Town of Aquinnah

We appreciate your support of the Commission and its activities as we strive to fulfill our legislative mandate by working on behalf of our people.

Respectfully,

John Peters, Jr.
Executive Director

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Table of Contents

Year 2005 Commissioners

Maurice L. Foxx, Chairperson, is a member of the Mashpee Wampanoag Tribe. He earned a degree in Mechanical Engineering at Northeastern University. In 2002, he retired from Faneuil Hall Marketplace in Boston as the Director of Technical Services. He became a member of the Commission on Indian Affairs in 1995 and currently serves as Chairman. He is also Chairman of the Mashpee Wampanoag Tribal Museum restoration Committee where he was instrumental in persuading the Town of Mashpee to turn over certain lands to the tribe. In addition, Maurice sits on a number of boards and committees including the Advisory Council for Plimoth Plantation's Wampanoag Indigenous Program, the Pilgrim Society Advisory Board, and the Mashpee Wampanoag Powwow committee. Several years ago, he collaborated with Children's Museum in Boston on the development of their Wampanoag website.

Janice Poodry Falcone grew up on the Tonawanda Seneca Reservation in upstate New York. She has lived in Massachusetts for over 40 years and has worked at the North American Indian Center of Boston and the Boston Indian Council since 1975. A former public school teacher, Janice taught electronics courses at the Indian Center before becoming the Director of Employment and Training. Her goal has always been to assist Indian people to a better life for themselves and their families.

Although her father was a Sachem chief of the Seneca Nation for 40 years, Janice is a member of her mother's Onondaga Nation turtle clan. Janice was appointed to the Commission on Indian Affairs in March of 1995. She continues to advocate for education and training opportunities for Native youth and adults.

Janice's most recent involvement has included being appointed to the National Native American Employment and Training Council for the U.S. Department of Labor. She currently is a member of the council's workgroups advocating on a National level to encourage opportunities for the advancement of Indian communities. A mother and grandmother Janice has had the honor and privilege of working with and for the Indian community for many years. She continues to enjoy the accomplishments of many Indian people.

Cheryll L. Holley is a Nipmuc from Worcester, MA. She became a member of the Commission on Indian Affairs in October of 1998. She attended Howard University in Washington, DC and served in the U.S. Army Medical Corp for several years. She holds a BA in History. The mother of three school-age daughters, she is currently a dialysis nurse at UMass Memorial Hospital in Worcester. She is a founding member and current Project Director of the Nipmuc Indian Development Corporation, a non-profit agency dedicated to increasing self-sufficiency in Native people both as a whole and as individuals. She serves on different committees for the Nipmuc Nation including chair of the Genealogy Committee.

TroyW. Phillips is a Nipmuc who was born and raised in Western Massachusetts where he also resides. An advocate of Indian issues for many years, Troy has represented the Nipmuc Nation on the "Boston Harbor Island Project." In 1997 he started "Ayeutean," a Native organization that provides knowledge, education and traditions of Eastern Native culture. As a traditional dancer, he travels throughout Indian country with his young daughter Anna.

After several years of college and serving in the U. S. Army, he now is a self employed home improvement contractor.

Troy was appointed the Commission on Indian Affairs in October 2003. His long term involvement with the Native communities and organization has proven beneficial in carrying out some of the Commission's goals and objectives for that region of the state.

Dr. Herbert R. Waters, Jr., was appointed to the Commission on Indian Affairs on March 24, 1995. A member of the Wampanoag community, he is a life-long resident of the New Bedford-Dartmouth area. He graduated from Providence College and immediately entered the U.S. Marine Corps as a Second Lieutenant. After serving in the USMC, he accepted a teaching position in Dartmouth and then transferred to the New Bedford School Department where he taught for thirty-seven years. For twenty-two of those years, he was the principal of Sgt. Wm. H. Carney Academy, an institution that was known statewide as an outstanding place of learning with emphasis on multi-cultural education and progressive/innovative methods and techniques for learning. Commissioner Waters has been involved in Indian Affairs for his entire adult life encompassing curriculum development, assisting Slow Turtle and Drifting Goose during the 70's reorganizing effort, and the social/political struggles of Indian people. He is married and has five children, all of whom are college graduates and have served the country in the U.S. Marine Corps and the U.S. Army.

Beverly Wright was appointed to the Commission in October 2000. As Chief Elected Official and Chairperson of an eleven member Tribal Council, Ms. Wright maintains the integrity and goals of the Wampanoag Tribe of Gay Head/Aquinnah. She has been Chairperson for ten years and was re-elected to a fourth term in June 1999. Before being elected Chairperson, she served the Tribe for twelve years as a Council member, including a term as Treasurer. She has also been a Director of the Title IX Indian Program and was one of the founding committee members of the Aquinnah Wampanoag Housing Authority.

Ms. Wright has been vice-President for 6 years and currently serving a third term as Secretary of USET (United South & Eastern Tribes). She is a member of the NCAI (National Congress of American Indians), and a member of the Female Tribal Leaders Association. Ms. Wright is currently serving as a representative of USET to the Indian Health Tribal Self Governance Advisory Board, the National Budget Advisory Board and the Bureau of Indian Affairs/Tribal Budget Advisory Council. She is also a Board member of the international Advisory Council for the Native Nations Institute in Leadership, Management and Policy in Arizona.

Staff

John "Jim" Peters, Jr., Executive Director

Hired in May 2000, Jim has had several years to settle into his new position as the Executive Director of the Commission. Prior to joining the Commission, Jim held a number of positions with New England Tribes, the most recent, a Career Development Counselor with the Mashantucket Pequot Tribe of Connecticut. He was the Executive Director for his own tribe, the Mashpee Wampanoag Indian Tribe on Cape Cod, and held the position of Tribal Planner and Tribal Programs Administrator for the Narragansett Tribe in Rhode Island. He also served as a Town Planner for the Town of North Kingstown in Rhode Island.

Jim earned a Bachelors Degree in Business Administration and a Masters Degree in City Planning. Aside from his employment and educational background, he has participated in many cultural, social, and historic Native American events that have taken place in Southern New England over the past 30 years.

Burne Stanley, Part-Time Administrative Assistant

Associated with the Commission since 1979, Burne has become a valuable asset to the office. Having worked in several capacities, she has a vast knowledge of the Commission and its operation. Her positions with the Commission have ranged from fill-time employee, to a volunteer, to a contract employee. She is now on-board as a part-time Administrative Assistant.....a position she has held since January 2001. Through her long association with the Commission, Burne has come to know and work with most of the tribes in the state and has developed valuable relationships with them.

Although her employment experience has been in Business Administration and in Accounting, Burne's educational background is in Communications, a field she majored in at Emerson College in Boston.

For over two and a half decades, Burne has attended and been involved with many of the social and cultural events in and around Massachusetts. This is her way of embracing and celebrating her Pequot/Mohegan ancestry. Native American cultural activities continue to be a major part of her and her daughters' lives.

Purpose and Responsibilities

The Commission is charged with investigating problems that are common to Native Americans who are residents of the Commonwealth. It is further charged with assisting tribal councils, Native American organizations, and individuals in their relationship with agencies of state and local government. It assists with social services, education, employment opportunities, health, housing problems, civil rights, legal aid, treaties, taking of a census of Native American residents, and any other rights or services concerning Native American residents of the Commonwealth. In addition, it provides for the burial expenses for the remains of any person whose previously unknown grave has been disturbed, forcing its relocation, and whose identity has been determined by the state archaeologist to be that of an American Indian.

Accomplishments & Work In Progress

University Of Massachusetts Boston
College of Public and Community Service (CPCS)

Education has been a primary objective of Massachusetts Natives since they were deceived by the authors of the first deeds that were imposed upon them by the Colonist. The Massachusetts natives have spent generations playing catch up to a complex constantly changing structure that has invariably been contrary to their traditional way of life. The Commission has sought innovative approaches in education as has been found in the UMASS-BOS CPCS distance learning curriculum of established Community Development Programs of the University. This online class work combined with a number of support forums; such as writing, basic statistical analysis, and group discussions on the overall topic continues to provided an effective, manageable alternative for our adult student . To date six students have graduated from the program.

Native American Institute: An Institute for New England Native Americans

In the six New England states there was no University based Institute or Center led by Native experts or devoted to the community development issues of Native tribes. There have been initiatives and activities at several major institutions (most notably Dartmouth College, Harvard University, Brown University, and University of Massachusetts Amherst) that focus more academically on cultural and educational issues, but all are less focused on New England development concerns. Given the state of development and overlapping concerns of many New England tribes it seemed the time for a full-fledged university based Institute.

• Sponsoring meetings with the general public, Massachusetts Legislators and other state/national elected and administrative leaders to discuss tribal issues in a non-lobbying format.

• Becoming a resource among national and regional academic/professional efforts to address Native issues, making contacts with other programs and institutes in the area to define our special niche -- local Native leadership and a participatory Culturally-based community development approach. The W.K. Kellogg Foundation awarded the Commission, in partnership with the UMass Boston CPCS, $100,000 to initiate a University-based Institute. There is a 2/1 match over a 3 year period.

During 2005 an informal UMASS BOS Academic Advisory group was formed, and monthly meetings were held with Commissioners and staff to discuss the formation of the Institute. They apprised of the university environment and offered strategy toward establishing an Institute on campus. Meetings were held with the Dean of CPCS, Associate Provost and Directors of the Gaston, Asian and Trotter Institutes currently established at the University. Planning and implementation of a class on Contemporary Native Issues was carried out with the Anthropology Department. The Commission contributed to the cost of guest speakers and a Native lecturer.

Ancient Fish Weir Project

5,300 years ago, in what is now Boston's Back Bay, Native people built fish weirs in tidal flats to catch alewife, smelt and salmon. These four-foot high, fence-like structures were woven of alder, willow saplings and brush wattling and were made of over 65,000 wood stakes.

Archaeological evidence discovered during subway excavation and building construction over the last one hundred years indicates that fish weirs were built over a 1500-year period in tidal marsh now located 28 to 40 feet below the Boston Common and the Back Bay.

In 2005 the Commission became a stake holder with the Fish Weir Project, along with other Native American education specialists and archeologists to develop a curriculum that would provide a snap shot of life before America. We are coordinating with the afterschool teachers at Neighborhood House Charter School and the Friends of the Public Garden to expand upon our current curriculum around early inhabitants and their culture. Students from our partner schools have worked with us to prepare educational graphics for the site and informational brochures to be available during the Fish weir Building Event. http://www.fishweir.org/discovery.html

Boston Harbor Islands

There are 30 Islands within the Boston Harbor complex, all with their own unique history. Archeological surveys and oral history describe use and relationships that native people had with these islands over the millenniums and since European occupation there remains physical and written evidence of their contemporaneous use. In 1996 legislation was proposed to bring the islands under the auspices of the U.S. National Park Service. With lobby and protest by a small group of Natives regarding some of the horrific treatment waged upon native people on these islands, amendments to the legislation required a native presence in the planning and operation of this unique National Park Partnership. The owners govern this partnership: city, state, individuals and related organizations, which have an advisory board with a native seat. The Commission participates as an Ex-officio state entity and assists the Native American participation in Island cultural objectives and activities.

Deer Island Native American Memorial

One island with specific well documented history is Deer Island during the period 1670's. As the story is told the Europeans came to this land with the belief that they had a god given right to take the possessions of non-christens. Pursuing that conquest, the relationships between the Indigenous and the Euros were reprehensible to some, and an effort to spare some of these savages was initiated through the Propagation of the Gospel. Indian Praying towns were set aside and protected from the colonial expansion and efforts to convert these savages within the European image began. Needless, to say the Indigenous grew angry with the European arrogance, leading to what became know as King Phillips War, the bloodiest war per-capita engaged on these shores. Despite of the Praying Indians peacefulness' and commitment to the Colonies, in an act of hatred and retaliation, the Indians of the Nipmuc Praying towns were militarily gathered chained and forcibly incarcerated on Deer Island during the winter months of 1675-76. Many died from starvation and

exposure. Today Descendants of those that survived conduct annual ceremonies on this island and have committed to create a memorial to their ancestors. The Committee selected Lloyd Gray of the Onondaga Nation, currently residing in Worchester, to create the memorial. The fundraising campaign is still on-going.

Religious Freedom: Prisons

In May of 2001 the Commission on Indian Affairs filed an Amicus brief with the Massachusetts Appeals Court as an informational addendum to the case: Randall Shield Wolf Trapp vs. Lawrence Dubois. This case asserts the rights of inmates to conduct traditional ceremonies under the Indian Freedom of Religion Act at the Massachusetts Correctional Institute at Gardner. The presiding Judge did not rule on the case because he felt that the parties should take the time to try and resolve their anxiety with amenable solution that both the Native people and the Department of Corrections could work with.

Within a couple of months the DOC approved a plan to allow sweat lodge ceremonies in 3 facilities of which one was designated for women.

We continue to have difficulty finding additional ceremony leaders, however the sweats have taken place on a regular basis, with one exception. In 2004 the lodge built at the Maximum security facility in Shirley was placed in a location up wind of the facilities ventilation system. Consequently, whenever the fire was lit to heat the rocks the smoke would get drawn into the ventilation system. Because of the security protocols finding an alternative location for the lodge has apparently posed problems. The DOC continues to conduct tests on alternative locations within the facility.

Native Graves

During 2005 the Commission in conjunction with the State Archeologist investigated five unmarked burial sites. This office continues to insist whenever possible to leave ancestors in, or near their original resting places. Three property owners have allowed re-interment elsewhere on their property.

This office has also been actively involved in the implementation of the Native Graves Protection and Repatriation Act (NAGPRA), process in particular as it relates to non-federal acknowledged tribes. We are honored by the cultural commitment of the Wampanoag Tribe of Aquinnah who has posed as a compliance umbrella in the formation of the Wampanoag Confederation. The Confederation consisting of volunteers from selected tribes performed ceremony for 70 Ancestors in 2005

North American Indian Center of Boston (NAICOB)

The North American Indian Center of Boston, formerly the Boston Indian Council, has resided at 105 S. Huntington Ave. for over 30 years, a number of years under a lease, many more years under what may be considered adverse possession. However, one may want to consider the terms, it has been home for Boston's urban Indians for a long time. Over the past four years with some high level negotiating and politicking It is with great pleasure to announce that NAICOB will remain at 105 S. Huntington. However, the adjacent lot has been auctioned off and the organization will be responsible to bring their building up to code. Their major capital campaign, to either replace the building or perform major renovations, is still underway.

Federal Recognition

One of the last acts of the Clinton Administration was to grant Federal Acknowledgement to the Hassanamisco Nipmuc Tribe of Central Massachusetts. Within the first year of the Bush Administration that decision was reversed. The Nipmuc had been on active consideration for over 8 years and the Clinton decision was appropriate for a tribe that survived three and a half centuries of Colonial conquest. It's sister band, the Chaubunagungamaug, had also been denied acknowledgement. To date they are appealing those decisions.

The Mashpee Wampanoag Tribe of Cape Cod has been ready for active consideration since 1996. By 2001 the Tribe grew impatient with the long delays and successfully sued the US Dept. of Interior. The Judge ordered the BIA to move the Mashpee's to active consideration and render a preliminary determination in 6 months. The BIA was well on its way to make a decision on the Mashpee petition when US Court of Appeals stayed the lower courts decision. May 26, 2005 an agreement was reached that due to circumstances of Tribes scheduled ahead of Mashpee they could be placed on Active consideration in October 2005, a proposed finding would be rendered by April 2006 and a final determination by December 2007.

Settlement Acts vs. Tribal Sovereignty

In 1983 the Gay Head/Aquinnah Tribe of Martha's Vineyard agreed to a Settlement Act that extinguished the land claims suit that they filed seeking the return of their aboriginal land, an area set aside and protected from Colonial expansion in the 1600's. A condition of the Settlement Act was that they satisfy the criteria to be acknowledged as a Federal Tribe and relinquish criminal and civil jurisdiction to the State. In 1987 they were declared a Federal tribe and the terms of the Settlement Act went before Congress for ratification

Over the years the Tribe pursued a number of initiatives, one being a shellfish hatchery, an enterprise that they planned for years, including: technological training, facility design, and marketing analysis. Construction neared completion when it was realized that a pumping station was overlooked. While the hatchery facility was approved under the auspices of the Town of Aquinnah, it was decided that as a sovereign government they could issue their own building permit, particularly as their standards were generally similar or higher than that of the Town. The Town took issue with the Tribes action accusing them of usurping their authority. The Town's position was that the Tribes Settlement Act therefore the Tribe was subject to their authority. The Tribe countered with Sovereign immunity and the Dukes County Superior Court Judge agreed with them. The Judges decision was appealed to the State Supreme Judicial Court who reversed the decision.

In 2005 The Aquinnah Wampanoag Tribe and the town of Aquinnah negotiated an agreement over zoning and land-use issues that were the subject of a contentious court case. The state Supreme Judicial Court ruled that the town can enforce its zoning laws on the tribe. The tribe decided not to appeal to the U.S. Supreme Court, prompting the negotiations for a memorandum of understanding to negotiate there differences between them.

Aboriginal Rights

The most recent challenge to the Aquinnah Tribes Sovereignty came when the Commonwealth declared a moratorium on taking Herring. The herring stocks, a mainstay of the Wampanoag long before Squanto introduced them to the Pilgrim, have been significantly depleted over the years, some believe as result of off shore fishing. The Mashpee Tribe had established through the courts that a 1765 treaty regarding aboriginal hunting and fishing rights still applied today. So while the rest of the citizens of the Commonwealth were subject to penalty if caught with herring the Indians maintained their diet of this traditional staple, except for the Aquinnah who were held subject to their settlement act treaty by the Commonwealth's Dept of Fish and Wildlife. The Mashpee's negotiated a MOU with the State to maintain counts of their take.

Native American Tuition Waivers

Over the last two decades the Massachusetts Commission on Indian Affairs has assisted in the determination of eligibility of Native Americans in Massachusetts for tuition waivers at state colleges and universities. It is authorized by the Board of Higher Education to certify that individuals are of Native American descent and eligible for the tuition waiver. The Commission uses membership in a Massachusetts tribal group (tribe, band, or clan) that is acknowledged by the Commission as a legitimate, historical tribal group as a criterion for making recommendations about tuition waivers. In addition, the Commission uses official state and federal recognition status for issuing tuition waivers to individuals whose tribes are located outside of Massachusetts.

The student is required to fill out a one-page form and submit proof of acceptance to the college, proof of tribal membership, and proof of Massachusetts residency. Before the beginning of each semester, the Commission sends a letter to the respective colleges and universities with the names of students who have been certified (by the Commission) as being Native American.

A number of students are taking advantage of the tuition waiver for the summer sessions. While not all of the colleges accept it for the summer, we have found a few of them that do. Some of them include Bridgewater State College; Bristol Community College; Bunker Hill Community College; Framingham State College; Holyoke Community College; North Shore Community College; U Mass/Boston; U Mass/Dartmouth; and Worcester State College.

We are happy to report that this year 175 Native American students benefited from the program.

Budget

The budget for fiscal year 2005 was $94,663 which included funds for the salaries for one full time and one part time employee, travel expenses for staff and seven Commissioners, unemployment insurance, administrative expenses & supplies, and re-interment expenses.